

## **Chapter 2.170**

### **CLAIMS AND RISK MANAGEMENT**

#### **2.170.010 Utah Local Governments Trust.**

#### **2.170.020 Procedure for filing and processing claims.**

#### **2.170.030 Indemnification of employees.**

#### **2.170.010 Utah Local Governments Trust.**

The city participates in the Utah Local Governments Trust, a nonprofit association operating under the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-1, *et seq.*, for the purpose of providing the city with risk management services. The city makes contributions to a joint reserve fund, for the purpose of making payments of claims against the cooperating governmental entities when they become payable pursuant to the provisions of the Utah Governmental Immunity Act, UTAH CODE ANN. §63-30-1, *et seq.*, and for the purpose of purchasing liability insurance to protect the cooperating governmental entities from any or all risks created by the Utah Governmental Immunity Act. The participation by the city in the Utah Local Governments Trust is governed by the joint protection agreement under the Interlocal Cooperation Act. The participation by the city in the Utah Local Governments Trust shall not be deemed to constitute a waiver of any of the city's rights or immunities under the Utah Governmental Immunity Act or the Constitution of Utah.

#### **2.170.020 Procedure for filing and processing claims.**

A. A claim against the city, or against one of its employees for an act or omission occurring during the performance of the employee's duties, within the scope of employment or under color of authority, is barred unless notice of claim is filed

according to the requirements of UTAH CODE ANN. §63-30d-401 to -403, inclusive, within one year after the claim arises, regardless of whether or not the function giving rise to the claim is characterized as governmental.

B The notice of claim shall be in writing, signed by the claimant or by a person authorized by the claimant. The city manager may prescribe the use of forms and promulgate administrative procedures to expedite the claims processing procedures of the city.

C. The city manager, after conferring with the city attorney, may compromise and settle any claim as to the damages or other relief sought, if the payment in compromise is less than the deductible specified under the city's liability insurance or other joint protection agreement though the Utah Local Governments Trust.

D. The settlement and compromise of claims in an amount exceeding the deductible specified for the city under the deductible under the city's liability insurance or other joint protection agreement with the Utah Local Governments Trust requires city council approval, except when the funds for payment of the compromise and settlement come from the Utah Local Governments Trust.

E. Within 60 days of the filing of the claim, the city manager or his designee shall act on the claim and notify the claimant in writing of the approval or denial of the claim. A claim shall be deemed to have been denied unless the claim is approved within 60 days after the claim is filed.

F. The city manager shall, on a timely basis, advise the city council concerning the claims which have been filed against the city and for which settlement is pending.

**2.170.030. Indemnification of employees.**

A. Except for injuries resulting from the fraud or malice of the employee, the city shall defend, hold harmless and indemnify all city officers and employees, including members of boards, commissions, and committees established pursuant to this code, for all claims brought against them for acts arising out of their city duties or within the scope and course of their employment with the city.

B. Before the city will defend an employee against a claim, the employee must make a written request to the city council to defend him. Such request must be filed with the city manager within ten days after service of process upon the employee or within such longer period as would not prejudice the city in maintaining a defense on his behalf, or otherwise conflict with notice requirements imposed on the city in connection with the city's participation in the Utah Local Governments Trust.

C. If the employee fails to make a request or fails to reasonably cooperate in the defense, the city is not required to defend or continue to defend the employee, nor pay any judgment, compromise or settlement against the employee in respect to the claim.

D. The city may decline to defend as provided in UTAH CODE ANN. §63-30d-902 or any other pertinent law.

E. If the city conducts the defense of an employee, the city shall pay any judgment based upon or any compromise or settlement of the claim except as provided in this section. The city may conduct the defense of an employee under an agreement with the employee that the city reserves the right not to pay the judgment, compromise or settlement unless it is established that the claim arose out of an act or omission occurring during the performance of his

duties, within the scope of his employment, or under color of authority.

F. Subject to subsection G below, if an employee pays a judgment entered against him, or any portion of it, which the city is required to pay under UTAH CODE ANN. §63-30d-902, the employee is entitled to recover from the city the amount of such payment and the reasonable costs incurred in the employee's defense.

G. If the city does not conduct the defense of an employee against a claim, or conducts the defense under a reservation of rights as provided in UTAH CODE ANN. §63-30d-902(6), the employee may recover from the city if the employee can prove that the act or omission upon which the judgment is based occurred during the performance of his duties, within the scope of his employment, or under color of authority, that he conducted the defense in good faith, and that none of the conditions under UTAH CODE ANN. §63-30d-202(3)(c) applied.